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UNCLAS ANKARA 001275

SIPDIS

TREASURY FOR OASIA
STATE FOR EB/TPP/MTA/IPC - WILSON AND EUR/SE
DEPT PASS USTR FOR DBIRDSEY/KALVAREZ, PATENT AND
TRADEMARK OFFICE FOR URBAN, LIBRARY OF CONGRESS FOR TEPP
USDOC FOR ITA/MAC/DDEFALCO

SENSITIVE

E.O. 12958: N/A
TAGS: [ETRD](#) [KIPR](#) [TU](#) [USTR](#)
SUBJECT: 2003 SPECIAL 301 REVIEW: RECOMMENDATION TO
MAINTAIN TURKEY ON THE WATCH LIST

REF: 02 ANKARA 8635 AND PREVIOUS

Summary

1. (SBU) Turkey took some limited steps to improve intellectual property protection in 2002, notably by suspending a problematic broadcast regulation and by forming provincial committees to improve enforcement. However, piracy of optical media, books and other products remains widespread and the GOT has not addressed key issues facing U.S. pharmaceuticals companies, including data exclusivity and price discrimination against imports. Overall, IPR protection has not improved in most respects in the last year, but it has not deteriorated either. Embassy recommends maintaining Turkey on the Watch List. End Summary.

Limited Progress on IPR

2. (U) There were positive developments in IPR protection in 2002, all on the copyright side. The Ministry of Culture allowed a registration it had previously granted to a firm named Planet to be revoked; Planet had obtained a false registration from the Ministry to import DVDs. The Turkish Council of State also suspended application of compulsory licensing provisions of the GOT's broadcast regulation. The GOT formed provincial committees to improve copyright enforcement, and Istanbul-based representatives of the IPR industries report that that provincial committee has taken concrete steps to curb piracy. Establishment of specialized intellectual property courts is another positive step.

Enforcement and Data Exclusivity Problems Remain

3. (U) While the motion picture and software industries have had some successes in obtaining the cooperation of Turkish law enforcement authorities, music industry representatives have consistently told us that enforcement has not improved for their products and IIPA's most recent Special 301 submission show a piracy rate of 75 percent for music and records. Book publishers are also experiencing high rates of piracy and DVD piracy appeared in 2002. Industry representatives claim that the provincial enforcement committees have been active only in Istanbul (although this province accounts for the majority of some of these firms' sales in Turkey). Trademark holders also criticize enforcement of their rights as deficient, claiming that Turkey is one of the world's largest exporters of counterfeit goods. The GOT has not changed Health Ministry regulations which fail to provide data exclusivity for pharmaceuticals, disputing the U.S. view that this is required by TRIPS, nor has it revised regulations to remove discriminatory pricing practices applied to pharmaceuticals imports.

Recommendation

4. (SBU) Despite heavy lobbying on copyright and

pharmaceuticals issues by the Ambassador and other Mission elements, the previous GOT took only limited action to improve the IPR climate in 2002, and did not address data exclusivity. Our dialogue with the new government elected in November 2002 has been dominated by foreign policy crises. We have therefore not been able to establish the high-level dialogue that is warranted on this issue.

15. (SBU) While we recognize that Turkey has not made the progress we had hoped for on IPR protection this year, Embassy recommends maintaining Turkey on the Watch List. We strongly recommend that, after the current situation in the region is resolved, Washington ratchet up its engagement with the GOT on this issue, possibly including a visit to Ankara by an IPR delegation.
Pearson#